

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: St Paul District
FILE NUMBER: 04-159596-DJP

REGULATORY PROJECT MANAGER: Dale J. Pfeiffle **Date:** October 25 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** October 25, 2004
 At the project site (Y/N) **Date:**

PROJECT LOCATION INFORMATION:

State: Wisconsin
County: Waukesha
Center coordinates of site by latitude & longitudinal coordinates: 42.8957217113N, 88.1013166493W
Approximate size of site/property (including uplands & in acres): 53
Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs): A wetland delineation prepared by a private consultant was received by the Corps for review and concurrence. The wetland delineation report identified 5-separate wetlands, totaling 11.5 acres. Four of the wetlands with a total surface area of 11.1 acre were adjacent to Big Muskego Lake and tributaries to Big Muskego Lake. The fifth wetland with a surface area of 0.4 acres was identified within a depressional area within a cropped field. A review of available aerial photography, local topographic maps, and the soil survey confirmed that the 0.4 acre wetland lacks a surface water connection to a water of the US. The landscape position of the wetland also indicates that is not adjacent to a water of the US.

The delineation report did not identify development plans for the property. It is likely that the property would be utilized for residential housing sometime in the near future.